



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 14, 1992

Ms. Sandra Weber
Assistant Police Administrator
HPD Legal Services Unit
Houston Police Department
61 Riesner Street
Houston, Texas 77002

OR92-599

Dear Ms. Weber:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), article 6252-17a, V.T.C.S. Your request was assigned ID# 17294.

The Houston Police Department (HPD) has received a request for a "copy of the Criminal Investigation Division videotape of the Houston police action at the August 18, 1992 demonstration involving ACT-UP." You assert that the requested tape is excepted from required public disclosure by sections 3(a)(3) and 3(a)(8) of the act.

Section 3(a)(8) excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information related to the incident. Open Records Decision Nos. 474 (1987) at 4-5; 372 (1983) at 4. You explain that the videotape contains information pertinent to a pending criminal investigation that may result in charges against some demonstrators and to an internal investigation of possible civil rights violations by some police officers. We have reviewed the videotape and agree with your

determination that it contains information related to the pending investigations. Consequently, you may withhold the videotape pursuant to section 3(a)(8). Because we resolve this matter under section 3(a)(8), we need not address the applicability of section 3(a)(3) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-599.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee



CAB/HJ/lmm

Ref.: ID# 17294

cc: Mr. Earnest L. Perry
Police Reporter
Houston Chronicle
P. O. Box 4260
Houston, Texas 77210

